

The Insolvency Act 1986

2.24B**Administrator's progress report**

Name of Company
Fonix Limited

Company number
05043319

In the
High Court Leeds District Registry
{full name of court}

Court case number
70 of 2007

We
Kevin Roy Mawer
Begbies Traynor
9th Floor Bond Court
Leeds
LS1 2JZ
United Kingdom

Brian Green
KPMG LLP
St James' Square
Manchester
M2 6DS
United Kingdom

Administrators of the above company attach a progress report for the period

from	to
19 January 2012	18 July 2012

Signed


Joint Administrators

Dated

25 July 2012

Contact Details:

You do not have to give any contact information in the box opposite but if you do, it will help Companies House to contact you if there is a query on the form. The contact information that you give will be visible to searchers of the public record.

Sandila Samee KPMG LLP St James' Square Manchester M2 6DS United Kingdom		Tel
DX Number DX 724620 Manchester 42		DX Exchange

When you have completed and signed this form, please send it to the Registrar of Companies at -

Companies House, Crown Way, Cardiff CF14 3UZ

DX 33050 Cardiff





Fonix Limited (in Administration)

**Report to creditors pursuant
to Paragraph 2.112 of the
Insolvency (Amendment)
Rules 2003**

KPMG LLP

25 July 2012

This report contains 10 Pages

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Notice: About this Report

This Report has been prepared by Kevin Roy Mawer and Brian Green, the Joint Administrators of Fonix Limited, solely to comply with their statutory duty to report to members and creditors under the Insolvency Rules 1986, on the progress of the Administration, and for no other purpose. It is not suitable to be relied upon by any other person, or for any other purpose, or in any other context.

This Report has not been prepared in contemplation of it being used, and is not suitable to be used, to inform any investment decision in relation to the debt of or any financial interest in Fonix Limited.

Any estimated outcomes for creditors included in this Report are illustrative only and cannot be relied upon as guidance as to the actual outcomes for creditors

Any person that chooses to rely on this Report for any purpose or in any context other than under the Insolvency Rules 1986 does so at their own risk. To the fullest extent permitted by law, the Joint Administrators do not assume any responsibility and will not accept any liability in respect of this Report to any such person.

Kevin Roy Mawer is authorised to act as an insolvency practitioner by the Institute of Chartered Accountants in England & Wales

Brian Green is authorised to act as an insolvency practitioner by the Institute of Chartered Accountants in England & Wales.

The appointments of the Joint Administrator' are personal to them and, to the fullest extent permitted by law, KPMG LLP does not assume any responsibility and will not accept any liability to any person in respect of this Report or the conduct of the Administration.



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1 Introduction

Further to my report dated 5 May 2012 I write to provide an update on the progress of the Administration in accordance with Rule 2.112 of the Insolvency (Amendment) Rules 2003.

Please find attached my receipts and payments account to 18 July 2012 which shows a cash in hand balance of £22,498.

This report should be read in conjunction with previous reports and only covers movements in the period 19 January 2012 to 18 July 2012. Please note that all figures referred to in this report, including those on the receipts and payments account, are stated net of VAT.

The Administration was due to end automatically on 18 July 2012. As all matters have yet to be resolved, the Joint Administrators have obtained an 18 month extension to the Administration period with the consent of the Court.

The extension of the Administration will enable outstanding matters to be progressed, and depending on the outcome of the VAT appeal (see paragraph 7.1) enable a speedy distribution to all classes of creditor.

The new automatic end date is 19 February 2014.

2 Receipts and Payments

There have been no material receipts or payments in this period.

3 Joint Administrators' Fees

Time costs incurred in this period totalled £17,826 representing 44 hours at an average rate of £409. This brings the total time spent on this case to 1,906 hours at a cost of £582,055. Pursuant to Statement of Insolvency Practice 9, a detailed analysis of these costs is attached at Appendix 2.

The Joint Administrators have instructed KPMG LLP RRG, Forensics, Tax, VAT and pensions specialists to carry out activities in the Administration. The charge out rates shown in Appendix 3 are also applicable to these departments within KPMG LLP.

With the approval of the secured creditor, the Joint Administrators drew fees of £50,000 in a prior period.

No fees have been drawn in this period.

A creditors' guide to fees can be found at:

http://www.r3.org.uk/media/documents/technical_library/SIPS/SIP%209%20E&W.pdf

However, if you are unable to access this guide and would like a copy please contact Sandila Samee on 0161 246 4099.

4 Progress of the Administration up to 18 July 2012

4.1 Extension of the Administration Period

As previously reported, the Administration was extended to 18 July 2012 with the consent of the Court, pursuant to paragraph 76(2)(a) of Schedule B1 of the Insolvency Act 1986. This was to allow several outstanding matters to be completed, as detailed in paragraph 7 below

The potential recovery of a VAT refund from HMRC as detailed in paragraph 4.2 has not been straight forward and has taken more time than was initially anticipated. As a result, I was unable to conclude the administration prior to the automatic end date of 18 July 2012

Given the outstanding VAT refund is substantial (circa £9m) and the outcome of my appeal impacts directly on the return for all classes of creditor, I have obtained consent from the Court that the Administration be extended by a further 18 months. The automatic end date has extended to 19 February 2014 however, if all outstanding issues have been dealt with the case will be formally concluded prior to this date.

Form 2.31B Notice of Extension is attached at Appendix 4

4.2 VAT Refund

As previously advised, at the date of my appointment, the principal asset of the Company was a VAT refund due from HMRC of circa £9m. The Administrators have continued, with the assistance of the directors and our legal advisors, to challenge the decision of HMRC to disallow the input tax in relation to the VAT reclaims, and thereby recover some or all of the VAT. Further information on the progress of this matter is given in paragraph 7.1 below

5 Joint Administrator's change of circumstances

As previously reported, in September 2011 Kevin Roy Mawer left KPMG LLP to join another firm. Whilst for the time being, Mr Mawer remains as one of the Joint Administrators, I now have day to day conduct of this matter.

My firm are currently in the process of arranging for Mr Mawer to resign from office and be replaced by another Partner or Director from KPMG LLP

I will inform creditors when this change has taken place. The change should however have no impact on the outcome for creditors as I am fully aware of all ongoing issues

6 Creditors

6.1 Secured Creditors

As previously reported SYIDF has a debenture created on 29 March 2006 which created fixed and floating charges over the assets of the Company.

To date, pending developments as regards the potential VAT refund, no distributions have been made to SYIDF under its security.

6.2 Preferential Creditors

As previously reported the recovery to the preferential creditors remains uncertain and is entirely dependent on the extent of realisations from the outstanding VAT refund

6.3 Unsecured Creditors

As previously reported, the Insolvency Act 1986 (Prescribed Part) Order 2003 did apply in this case as the security held by SYIDF was created after 15 September 2003 and a prescribed part may therefore become available in due course

At this stage however, it is not possible to assess whether any dividend will be paid as this is dependent upon realisations from the VAT claim and associated costs.

7 Outstanding Matters

7.1 VAT Refund

As previously reported, the appeal by the Joint Administrators against the decision of HMRC to disallow the input tax in relation to the VAT reclaims continues to be progressed and whilst this issue is proving to be difficult to resolve, it is being moved forward as quickly as possible by the Joint Administrators' solicitors.

In the event that the claim is unsuccessful, the Joint Administrators will consider the extent to which the loss of such monies was a result of breaches of duty by the directors and the prospects of recovering such losses.

I am yet to receive a date for a VAT tribunal hearing to resolve this matter however I anticipate this will be in early 2013. A number of witnesses will be required to appear at the hearing which is the reason the potential date has been pushed back to enable the



majority to attend. Whilst the situation remains uncertain I hope to be able to provide more details in my next progress report.

8 Conclusion of the Administration

The Joint Administrators' proposals have yet to be fully completed and consequently I am not yet in a position to conclude the Administration. The Administration end date has now been extended to 19 February 2014 to allow outstanding matters to continue to be progressed.

Outstanding matters include:

- Pursuing the recovery of the pre appointment VAT debt,
- Conclusion of other investigation matters and potential claims against the directors;
- The submission of final post appointment tax and VAT returns
- The settlement of outstanding costs, including the Joint Administrators' fees
- Possible distributions to secured, preferential and unsecured creditors;

In the meantime however, if you have any queries please do not hesitate to contact Sandila Samee on 0161 246 4099.

Yours Faithfully,

B Green
Joint Administrator



Fonix Limited (in Administration)
Report to creditors pursuant to Paragraph 2.112 of the Insolvency (Amendment) Rules 2003
KPMG LLP
25 July 2012

**Appendix 1 - Joint Administrators' Receipts and
Payments account for the period 19 January 2012 to 18
July 2012**

Fonix Limited
(In Administration)
Administrators' Abstract of Receipts & Payments

Statement of Affairs	From 19/01/2012 To 18/07/2012	From 19/01/2007 To 18/07/2012
ASSET REALISATIONS		
Furniture & equipment	NIL	2,150 00
Petty cash received	NIL	102 71
Cash at bank	NIL	26,098 91
Rates Refund	<u>NIL</u>	<u>957 00</u>
	NIL	29,308 62
OTHER REALISATIONS		
Bank interest, gross	0 10	1,510.01
Contribution to Meeting Costs	NIL	9,800 00
Contribution to Fees	NIL	50,000 00
Sundry refunds	<u>NIL</u>	<u>4,808 62</u>
	0.10	66,118 63
COST OF REALISATIONS		
Administrators' fees	<u>NIL</u>	<u>50,000 00</u>
	NIL	(50,000 00)
Cost of Realisations		
Agents/ Valuers Expenses	<u>NIL</u>	<u>1,250.19</u>
	NIL	(1,250 19)
COST OF REALISATIONS		
Agents'/Valuers' fees	NIL	2,240 00
Professional fees	NIL	523 31
Legal fees	NIL	12,486 25
Legal expenses	NIL	5,643 06
Corporation tax	NIL	397.92
Corporation tax penalty	NIL	7 08
Statutory advertising	NIL	122.48
Insurance of assets	<u>NIL</u>	<u>258 91</u>
	NIL	(21,679 01)
UNSECURED CREDITORS		
(1,888,195 83) Trade & expense	<u>NIL</u>	<u>NIL</u>
	NIL	NIL
<u>(1,888,195.83)</u>	<u>0.10</u>	<u>22,498.05</u>
REPRESENTED BY		
Floating charge current		22,498 05
		<u>22,498.05</u>



Appendix 2 – Joint Administrators time cost analysis for the period 19 January 2012 to 18 July 2012

	Partner / Director	Manager	Administrator	Support	Total hours	Time cost	Average hourly rate
Administration & planning							
Cashiering							
General (Cashiering)			0 30		0 30	£81 00	£270 00
Reconciliations (& IPS accounting reviews)			0 20		0 20	£75 00	£375 00
General							
Fees and WTP	0 50	3 20			3 70	£2,566 50	£693 65
Statutory and compliance							
Appointment and related formalities	1 00	7 00	2 40		10 40	£5,823 00	£559 90
Checklist & reviews	0 50		0 70		1 20	£506 50	£422 08
Statutory receipts and payments accounts			0 30		0 30	£112 50	£375 00
Strategy documents	0 10	1 50	3 10		4 70	£1,461 50	£310 96
Tax							
Post appointment corporation tax		1 60	3 50		5 10	£2,765 50	£542 25
Creditors							
Creditors and claims							
General correspondence			0 70		0 70	£84 00	£120 00
Legal claims		0 20			0 20	£134 00	£670 00
Statutory reports		2 50	12 80		15 30	£3,211 00	£209 87
Investigation							
Investigations							
Correspondence re investigations		1 50			1 50	£1,005 00	£670 00
Total in period					43 60	£17,825 50	£408 84
Pre appointment time (if any, irrecoverable)							
					0 00	£0 00	
Brought forward time (appointment date to SIP9 period start date)							
					1,862 50	£564,229 45	
SIP9 period time (SIP9 period start date to SIP9 period end date)							
					43 60	£17,825 50	
Carry forward time (appointment date to SIP9 period end date)							
					1,906 10	£582,054 95	

Appendix 3 - Joint Administrators' charge out rates

	Restructuring £	Tax £	VAT £	Pensions £
Partner	535	595	900	745
Director	460	535	805	670
Senior Manager	425	375-470	565-705	470-590
Manager	345	255-305	385-455	320-385
Administrator	240	185-220	280-330	235-275
Assistant Administrator	175	85-185	125-245	110-235

	Hourly rate from	
	1 April 2009 to 30 September 2010	1 October 2010
	£	£
Partner	515	535
Director	440	460
Senior Manager	405	425
Manager	320	345
Senior Administrator	225	240
Administrator	165	175
Support	105	110



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Appendix 4 – Form 2.31B Notice of Extension